

ESTTA Tracking number: **ESTTA472434**

Filing date: **05/15/2012**

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91204577
Party	Plaintiff Memory Lane, Inc., fka Classmates Online, Inc.
Correspondence Address	Daniel J. Oates Graham & Dunn PC 2801 Alaskan Way, Suite 300 - Pier 70 Seattle, WA 98121-1128 UNITED STATES ip@grahamdunn.com, doates@grahamdunn.com
Submission	Motion for Default Judgment
Filer's Name	Daniel J. Oates
Filer's e-mail	doates@grahamdunn.com
Signature	/s/ Daniel J. Oates
Date	05/15/2012
Attachments	Motion for Default Judgment.pdf (3 pages)(30357 bytes)

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD**

In the Matter of
Trademark Application Serial No. 85369686
For the Mark KLASSMATING.COM
Published in the Official Gazette on December 6, 2011
Time to Oppose Extended to April 4, 2012

MEMORY LANE, INC.,

Opposer,

v.

ULTRA CAPTION CORP.,

Applicant.

Opposition No. 91204577

MOTION FOR DEFAULT JUDGMENT

Pursuant to Fed. R. Civ. P. 55(b), Opposer Memory Lane, Inc. fka/dba Classmates Online, Inc. (“Opposer”), moves the Board for an Order of Default Judgment on its claims against Applicant Ultra Caption Corporation (“Applicant”). *See* 37 C.F.R. § 2.116(a) (noting that the federal rules of civil procedure apply to inter partes proceedings).

The Board may enter default and default judgment against a defendant that fails to answer a notice of opposition within the prescribed time period. 37 C.F.R. § 2.106(a); TBMP § 312.01. The plaintiff may also raise the issue of whether default judgment should be entered against a defendant in an opposition proceeding by way of a motion for default judgment. TBMP § 508 (“[T]he plaintiff, realizing that the defendant is in default, may file a motion for default judgment. . .”); *see also* TBMP § 312.01 (citing *DeLorme Publ’g Co. v. Eartha’s Inc.*, 60 U.S.P.Q.2d 1222 (TTAB 2000)). The filing of

a motion for default judgment “may serve as a substitute for the Board’s issuance of a notice of default[.]” TBMP § 508.

In the present case, Opposer filed and served its Notice of Opposition on April 4, 2012. *See* Doc. No. 1. The same day, the Board issued a scheduling Order that set a deadline for Applicant to file its Answer to Opposer’s Notice of Opposition within forty days of the date of the Order: May 14, 2012. *See* Doc. No. 2. More than forty days have passed since the date of the Board’s Order, and Applicant has not appeared, answered the Notice of Opposition, or requested an extension of the deadline. Therefore, pursuant to Fed. R. Civ. P. 55(a) and TBMP § 312.01, Applicant is in default for failing to file an Answer to the Notice of Opposition. Accordingly, should Applicant fail to file a response to this motion, within 30 days, that demonstrates to the Board that there is good cause for why the Board should not enter Default Judgment, Opposer is entitled to entry of Default Judgment on its claims against Applicant. TBMP § 508; *see also* Fed. R. Civ. P. 55(b).

Dated this 15th day of May, 2012.

Respectfully submitted,

GRAHAM & DUNN PC

/s/ Daniel J. Oates

Daniel J. Oates

Robert C. Cumbow

GRAHAM & DUNN PC

Pier 70, 2801 Alaskan Way, Suite 300

Seattle, WA 98121-1128

Email: doates@grahamdunn.com

Voice: (206) 340-9631

Fax: (206) 340-9599

Attorneys for Opposer

CERTIFICATE OF SERVICE

I hereby CERTIFY that on this 15th day of May, 2012, I served a copy of the attached document by first-class mail upon:

Ultra Caption Corporation
209 West 20th St., Apt. 5B
New York, NY 10011

Ultra Caption Corporation
1521 Concord Pike, Ste. 301
Wilmington, DE 19803

/s/ Daniel J. Oates

Daniel J. Oates

CERTIFICATE OF ELECTRONIC FILING

I CERTIFY that on this 15th day of May, 2012, I electronically filed the foregoing MOTION FOR DEFAULT JUDGMENT regarding the mark "KLASSMATING.COM" (Serial No. 85369686), in Opposition Proceeding No. 91204577.

/s/ Daniel J. Oates

Daniel J. Oates
GRAHAM & DUNN PC
Pier 70, 2801 Alaskan Way, Suite 300
Seattle, WA 98121-1128
Phone: (206) 340-9631